THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.28055 OF 2005

DATED 23rd JANUARY, 2006

BETWEEN

Ch.Venkateswara Rao, S/o Venkataramaiah

… Petitioner

and

The District Collector (Panchayat Division),

At Machilipatnam, Krishna Division and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.28055 OF 2005

ORDER:

The petitioner is Sarpanch of Chigurukota Gram Panchayat. The first respondent herein issued a show cause notice, dated 25.10.2005, under Section 249(1) of A.P.Panchayat Raj Act, 1994 (for short, the Act) calling upon the petitioner to show cause within ten days as to why he should not be removed from the Office of the Sarpanch. The show cause notice also referred Xerox copy of the report, dated 24.12.2004 of Mandal Parishad Development Officer, Mudinepalli, and report, dated 15.06.2005, of the Executive Engineer, RWS (PR) Division, Gudivada, which were statedly enclosed to the show cause notice. After receiving the same, the petitioner sent a letter to the first respondent on 04.11.2005 informing that he did not receive two reports and requested for furnishing copies of the same. Responding to the letter of the petitioner, the first respondent issued another notice, dated 02.12.2005, granting seven days time to the petitioner to file explanation to the show cause notice, dated 25.10.2005.

The petitioner allegedly submitted his explanation on 07.12.2005 and also sent a copy of the same by registered post with acknowledgement due. According to the petitioner, the explanation was received by the Office of the first respondent on 13.12.2005, but without considering the same, the first respondent passed impugned order of removal on 18.12.2005. Therefore, he filed the present writ petition seeking invalidation of the order of the removal passed by the first respondent.

The writ petition is opposed by the learned Assistant Government Pleader, *inter alia,* on the ground that there is alternative remedy by way of Appeal under sub section (7) of Section 249 of the Act to the Commissioner of Panchayat Raj. He also submits, on instructions, that the explanation, dated 07.12.2005, submitted by the petitioner is received in the Office of the first respondent on 16.12.2005 and by that time the Collector passed orders on 15.12.2005 removing the petitioner from the Office of Sarpanch and that the fair copy of the order was dispatched to the petitioner on 18.12.2005.

The learned counsel for the petitioner has produced before this Court the original copy of the acknowledgment he received from the Post Office. A perusal of the same would show that the Office of the first respondent received the explanation submitted by the petitioner on 13.12.2005 itself. Even according to the learned Assistant Government Pleader, the first respondent passed orders on 15.12.2005 and by that time the explanation submitted by the petitioner is received by the Office of the first respondent. This only would lead to conclusion that the explanation of the petitioner was not considered and therefore though there is an effective alternative remedy available to the petitioner, on this limited ground, this Court is inclined to interfere in this matter.

Accordingly, at the stage of admission, after hearing the learned Assistant Government Pleader, the impugned order is set aside and the matter is remitted back to the first respondent. The first respondent is directed to consider the explanation of the petitioner, dated 07.12.2005, and pass appropriate orders under

Section 249(1) of the Act within a period of ten days.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

23.01.2006.

pln

Note: Issue CC by 24.01.2006.

(By order)

pln